REMARKS

Applicants reply to the Final Office Action mailed on July 17, 2008 within two months. Thus, Applicants respectfully request an Advisory Action. Claims 1-4, 6-7, 9 and 11-27 are pending in the application. Applicants amend the claims and add new claim 28. Support for the amendments and new claim may be found in the originally-filed specification, claims, and figures. Applicants submit that no new matter has been introduced with these amendments and this new claim. **Applicants respectfully assert that these amendments are non-substantive and should not require further search or reconsideration** at least for the reasons discussed below. Applicants respectfully request allowance of this application.

Initially, Applicants note that the Examiner has restricted the application to one of two groups: (I) "a method for electronic credential"; or (II) "a system for authenticating control circuit" (Office Action, page 2). Applicants respectfully disagree with this restriction requirement, but have amended the claims to clarify that all the claims are related to the originally presented invention in group I. As such, Applicants respectfully request allowance of all pending claims 1-4, 6-7, 9 and 11-28.

For the Examiner's convenience, clean versions of the two amended independent claims are reproduced here to illustrate the similarity between the elements of the two independent claims:

1. A method, comprising:

detecting a biometric sample at a biometric sensor to create biometric sample data;

associating said biometric sample data with at least one of a Radio Frequency (RF) device, a user identifier, or a transaction account;

verifying said biometric sample data to activate said RF device;

storing said biometric sample as registered biometric sample data in response to said verifying said biometric sample data;

receiving transaction biometric sample data associated with said RF device, wherein said transaction biometric sample data is further associated with a transaction request; and

comparing said transaction biometric sample data to said registered biometric sample data to facilitate authorization of said transaction request.

21.   An authorized sample receiver (ASR), comprising:

a biometric sensor configured to detect a biometric sample to create biometric sample data, wherein said biometric sample data is associated with at least one of an RF device, a user identifier, or a transaction account;

a database configured to store said biometric sample data as registered biometric sample data in response to said ASR verifying said biometric sample data, wherein said ASR is configured to activate said RF device in response to said ASR verifying said biometric sample data;

a communications device configured to receive transaction biometric sample data associated with said RF device, wherein said transaction biometric sample data is further associated with a transaction request; and

an authentication circuit configured to compare said transaction biometric sample data to said registered biometric sample data to facilitate authorization of said transaction request.

The Examiner rejects claims 1-4, 6-7, 9 and 11-20 under 35 U.S.C. § 103(a) as being unpatentable over Hoffman et al., U.S. Patent No. 6,397,198 ("Hoffman") in view of Kennedy et al., U.S. Patent No. 6,084,967 ("Kennedy"). As noted above, Applicants have not made any amendments in order to overcome the references cited by the Examiner because Applicants assert that the claims as presented in the previous Reply are also allowable over the cited references. For at least that reason, any subsequent Office Action should not be made final because the amendments presented with this Reply should not necessitate any further search. Furthermore, any amendments submitted with this Reply are made only in reply to the restriction requirement. Therefore, Applicants traverse the 103(a) rejections based on Hoffman and Kennedy. Additionally, Applicants do not concede that Hoffman is in fact prior art with respect to this application and Applicants reserve the option to antedate Hoffman.

Furthermore, the Examiner asserts that Hoffman discloses "verifying said proffered biometric sample in order to activate said device and confirm said proffered biometric sample (see abstract, column 5, lines 43-48); and . . . receiving a transaction request from said device, wherein said transaction request comprises a transaction biometric sample (see abstract, fig. 2 & associated texts)" (Office Action, page 5). **Hoffman, however, explicitly states that a transaction is performed without either activating a device or receiving a transaction**

request from a device—it is precisely the use of any transaction device that Hoffman teaches against.

For example, the title in Hoffman indicates that a transaction device is not used in connection with Hoffman's invention: "TOKENLESS BIOMETRIC ELECTRONIC TRANSACTIONS". Further, the abstract states, "[t]he invention discloses a tokenless biometric identification computer system." Hoffman explains the tokens that his invention teaches against: "[t]raditionally, a person must possess a man-made personalized token to gain access or authorization for an electronic financial or rewards transaction. Tokens such as magnetic ink encoded paper checks, smart cards, magnetic swipe card, identification cards or even a personal computer . . . are 'personalized' because they are each programmed or encoded with data that is unique and personalized to the authorized user" (Col. 1, lines 34-42).

Hoffman continues by making it clear that his invention _teaches against_ the use of any token whatsoever for a transaction: "[b]y contrast, as the disclosed invention is completely tokenless, the user does not directly possess, carry or remember any personalized tokens that can be lost, stolen, or damaged . . . there is a need for an electronic financial and rewards transaction system that provides an audio signature associated with the transaction processor . . . while not requiring the user to present any personalized man-made memory tokens such as smart cards, magnetic swipe cards, encoded paper checks or personal computers for identification . . . This system operates without any man made personal devices such as credit cards, identity cards or the like" (Col. 1, line 52 through Col. 2, line 68).

Therefore, because Hoffman expressly teaches against the use of any token, Hoffman cannot disclose or contemplate, alone or in combination with any reference whatsoever, "A method, comprising . . . associating said biometric sample data with at least one of _a Radio Frequency (RF) device_, a user identifier, or a transaction account; verifying said biometric sample data to activate said _RF device_ . . . receiving a transaction request from said _RF device_, wherein said transaction request comprises transaction biometric sample data; and authorizing said transaction request in response to said transaction biometric sample data matching said registered biometric sample data" as recited in amended independent claim 1 (emphasis added), and as similarly recited in amended independent claim 21. Regardless of which type of device Applicants claim, _Hoffman teaches against_ using such a device, because the use of such a device would render _Hoffman inoperable for its intended purpose_. For at least that reason,

Applicants respectfully submit that independent claims 1 and 21 are allowable over the cited references.

Moreover, the Examiner acknowledges that "Hoffman does not expressly disclose [an] RF device. Kennedy discloses [an] RF device" (Office Action, page 5). Applicants reserve the right to address Kennedy substantively in the future because it is not necessary to do so here. For the sake of argument, if Kennedy in fact discloses an RF device, Kennedy may not be combined with Hoffman, because Hoffman expressly teaches against the use of an RF device and Kennedy would therefore render Hoffman inoperable for Hoffman's intended purpose. Therefore, Kennedy cannot be combined with Hoffman, and Applicants respectfully request withdrawal of the 103(a) rejection based on Hoffman and Kennedy.

For at least the reasons discussed above, Applicants respectfully submit that independent claims 1 and 21 are in condition for allowance. Dependent claims 4, 6-7, 9, 11-20 and 22-28 variously depend from independent claims 1 and 21, so dependent claims 4, 6-7, 9, 11-20 and 22-28 are in condition for allowance for the reasons set forth above, in addition to their own unique features.
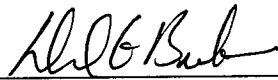
Applicants note that when "at least one of A, B, or C" is used in the claims, Applicants intend the phrase to mean any of the following: (1) at least one of A; (2) at least one of B; (3) at least one of C; (4) at least one of A and at least one of B; (5) at least one of B and at least one of C; (6) at least one of A and at least one of C; or (7) at least one of A, at least one of B, and at least one of C.

CONCLUSION

In view of the above remarks, Applicants respectfully submit that all pending claims properly set forth that which Applicants regard as their invention and are allowable over the cited references. Accordingly, Applicants respectfully request a Notice of Allowance. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject application. The Commissioner is authorized to charge any fees due to Deposit Account No. 19-2814.

Respectfully submitted,

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